



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,313	12/07/2001	Mark O. Worthington	BT12 00103001(USP8)US	7926
7590	11/03/2003		EXAMINER	
Donald Bolella, Esq. LEGAL DEPARTMENT BURSTEIN TECHNOLOGIES, INC. 163 Technology Drive Irvine, CA 92618			EDUN, MOHAMMAD N	
			ART UNIT	PAPER NUMBER
			2655	
			DATE MAILED: 11/03/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

70

Office Action Summary	Application No.	Applicant(s)	
	10/005,313	WORTHINGTON ET AL.	
	Examiner MUHAMMAD N EDUN	Art Unit 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,30 and 32 is/are rejected.
- 7) Claim(s) 3-29,31 and 33-45 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Double Patenting

Claims 1, 2, 30 and 32 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 5, 20, 33 and 35 of copending Application No. 10/006,619. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim 1 of the present application is being claimed in claim 1 and 33 of copending application 10/006,619. For example:

Claim 1 of Application 10/006,619 recites:

An optical disc assembly, comprising: a first layer containing optically readable structures which are trackable by an optical disc reader and which have encoded speed information enabling the optical disc reader to rotate the optical disc assembly at a speed that is determinable from said information; and at least one insert having a surface capable of receiving an analyte which can be detected by the optical disc reader.

Claim 1 of application 10/005,313 recites:

An optical disc assembly comprising: optically readable structures which are trackable by an optical disc reader and which have encoded speed information enabling the optical disc reader

to rotate the optical disc assembly at a speed that is determined from the speed information; and
an analyte section capable of receiving an analyte which can be detected by the optical reader.

The dependent claims 2 of the present application claims the same invention as set forth
in claim 5 of application 10/006,619. See the claims for comparison.

Further claim 30 of the present application corresponds to claims 20 of application
10/006,619. And claim 32 of the present application corresponds to claim 23 of application
10/006,619. See the claims for comparison of claimed limitations.

Allowable Subject Matter

**Claims 3-29, 31 and 33-45 are objected to as being dependent upon a
rejected base claim, but would be allowable if rewritten in independent form
including all of the limitations of the base claim and any intervening claims.**

Claim 38 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record alone or in combination does not teach or suggest the optical disc assembly and method having the combination of elements and steps with their recited structure and process, along with the specific structure and process of the analyte section capable of receiving an analyte which can be detected by the optical disc reader as set forth in claims 3-29, 31 and 33-45, and as disclosed in the specification.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Virtanen (6,030,581) discloses an optical apparatus having an optical disk that includes analyte.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N EDUN whose telephone number is 703-308-1550. The examiner can normally be reached on FLEXITIME.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DORIS TO can be reached on 703-305-4827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



MUHAMMAD N EDUN
Primary Examiner
Art Unit 2655

M. Edun